

TWENTY-SECOND DAY

THURSDAY, FEBRUARY 20, 1997

PROCEEDINGS

The Senate met at 11:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Haywood, Lindsay, Lucio, Luna, Moncrief, Nelson, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Harris, Madla, Nixon.

The President announced that a quorum of the Senate was present.

The Reverend Melvin L. Johnson, Eastern Branch Missionary Baptist Church, Freeport, offered the invocation as follows:

O heavenly Father, in the name of Your precious and holy Son, we approach Your presence as mere and mortal, yet as precious fruit of Your vineyard. We come humbly, gathered together this day to seek Your guidance within the ordained duties and responsibilities as chosen leaders of this great and blessed state. We thank You for giving us a land which seemingly flows with milk and honey. We thank You for making our state a special star upon the field of Old Glory.

We also thank You for giving us the opportunity to assemble together as a free and independent people: free to pray, free not to pray, free to come and go as we please, free to be whoever You have ordained us to be. We ask for blessing and divine guidance for our Governor and our Lieutenant Governor, our beloved Senators as well as our Representatives, and all of those who seek to fulfill the goodness You have inspired from ages past.

We pray that You guide us today in our endeavors, our agreements and our debates, our hopes and dreams, as well as our fears. We ask that You sit at counsel with us today. And please bless our great state, Texas, from Amarillo to Brownsville, from El Paso to Orange. We humbly continue to seek Your eternal blessings for the great and the small, our young and our elders, our rich and our poor. We ask these blessings today, O heavenly Father. In Jesus' name we pray. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

On motion of Senator Lucio, Senator Madla was granted leave of absence for today on account of important business.

On motion of Senator Truan, Senator Harris was granted leave of absence for today on account of important business.

On motion of Senator Ratliff, Senator Nixon was granted leave of absence for today on account of important business.

CO-AUTHOR OF SENATE BILL 446

On motion of Senator Haywood and by unanimous consent, Senator Nelson will be shown as Co-author of **SB 446**.

CO-AUTHOR OF SENATE BILL 623

On motion of Senator Ratliff and by unanimous consent, Senator Duncan will be shown as Co-author of **SB 623**.

CO-AUTHORS OF SENATE BILL 624

On motion of Senator Ratliff and by unanimous consent, Senators Gallegos, Patterson, and Shapleigh will be shown as Co-authors of **SB 624**.

CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 8

On motion of Senator Ellis and by unanimous consent, Senator Zaffirini will be shown as Co-author of **SCR 8**.

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions were introduced, read first time, and referred to the committees indicated:

SB 355 by Armbrister

Relating to the continuation and functions of the Automobile Theft Prevention Authority.

To Committee on State Affairs.

SB 608 by Madla

Relating to the requirements of probation for a licensed pharmacist.

To Committee on Health and Human Services.

SB 609 by Madla

Relating to the regulation of pharmacies and pharmacists; providing a penalty.

To Committee on Health and Human Services.

SB 613 by Zaffirini

Relating to reduction of overpayments in the state Medicaid program.

To Committee on Health and Human Services.

SB 614 by Zaffirini

Relating to assignment of Medicaid payments.

To Committee on Health and Human Services.

SB 617 by Moncrief

Relating to the licensure and regulation of nurses, including the development of certain pilot programs by the Board of Nurse Examiners.

To Committee on Health and Human Services.

SB 618 by Moncrief

Relating to the regulation of certain residential facilities; providing civil penalties.

To Committee on Health and Human Services.

SB 619 by Harris

Relating to the expenses of the Court of Appeals for the Second Court of Appeals District.

To Committee on Intergovernmental Relations.

SB 620 by Harris

Relating to durable powers of attorney.

To Committee on Jurisprudence.

SB 621 by Duncan, Armbrister, Patterson

Relating to the appointment, election, and retention or rejection of appellate justices and judges and to elimination of a straight-party vote in connection with appellate and district justices and judges.

To Committee on Jurisprudence.

SB 622 by Harris

Relating to the creation of certain school districts by detachment.

To Committee on Education.

SB 623 by Ratliff, Duncan

Relating to the regulation of the practice of engineering; providing penalties.

To Committee on State Affairs.

SB 624 by Ratliff, Gallegos, Patterson, Shapleigh, Luna, Madla

Relating to the regulation of therapeutic optometry.

To Committee on Health and Human Services.

SB 625 by Whitmire

Relating to the dissemination of information contained in the juvenile justice information system.

To Committee on Criminal Justice.

SB 626 by Sibley

Relating to selection by a governmental entity of a provider of professional services.

To Committee on State Affairs.

SB 627 by Sibley

Relating to certification of bail bondsmen by the Texas Department of Licensing and Regulation; providing a penalty.

To Committee on State Affairs.

SB 628 by Gallegos

Relating to the appointment of appellate justices and judges, to the nonpartisan election of district judges, to the retention or rejection of district and appellate judges, and to the creation of certain judicial districts.

To Committee on Jurisprudence.

SB 629 by Lucio

Relating to the records of an overturned disciplinary action or an unsustained complaint against fire fighters and police officers in certain municipalities.

To Committee on Intergovernmental Relations.

SB 630 by Duncan, Lindsay

Relating to requiring the state to reimburse counties for the costs of confining certain state inmates.

To Committee on Finance.

SB 631 by Haywood, Nelson

Relating to the compensation of retired state employees who return to work for, or contract with, the state.

To Committee on State Affairs.

SB 632 by Brown

Relating to payment of a nonrefundable annual fee in lieu of a bond or other form of financial security required of a person applying for or acting under a Railroad Commission permit to store, handle, treat, reclaim, or dispose of oil and gas waste.

To Committee on Natural Resources.

SB 633 by Brown

Relating to assessments performed before agency adoption of certain environmental rules.

To Committee on Natural Resources.

SB 634 by Brown

Relating to the classification of certain liquefied petroleum gas activities; insurance requirements for liquefied petroleum gas, compressed natural gas, and liquefied natural gas licensees; and registration and transfer fees for liquefied petroleum gas, compressed natural gas, and liquefied natural gas transportation vehicles.

To Committee on Natural Resources.

SB 635 by Brown

Relating to clarifying that money in the Oil-Field Cleanup Fund may be used for conducting site investigations and assessments and that expenditures from the Oil-field Cleanup Fund for site investigations and assessments may be recovered.

To Committee on Natural Resources.

SB 636 by Brown

Relating to exemptions from the Texas Surface Coal Mining and Reclamation Act, an exemption from surface mine permit application requirements for

certain small mines, and abandoned mine lands eligible for reclamation or abatement expenditures.

To Committee on Natural Resources.

SB 637 by Brown

Relating to the finality of contested case orders rendered by state agencies.

To Committee on State Affairs.

SB 638 by Brown

Relating to the definition of operator of oil and gas wells and to an operator's duty to plug wells.

To Committee on Natural Resources.

SB 639 by Brown

Relating to applications for and revocations of oil and gas permits, certificates of compliance, and organization reports filed with the Railroad Commission of Texas.

To Committee on Natural Resources.

SB 641 by Harris

Relating to a physician who accepts a financial incentive; imposing penalties.

To Committee on Economic Development.

SB 643 by Galloway

Relating to the experience rate applicable to certain successor employers for contributions under the unemployment compensation system.

To Committee on Economic Development.

SB 644 by Armbrister

Relating to the regulation of certain air ambulance companies.

To Committee on Health and Human Services.

SB 645 by Armbrister

Relating to state fiscal matters, including holidays, employee compensation and deductions, reports, consultants, and the comptroller's powers.

To Committee on Finance.

SB 646 by Brown

Relating to court reporting firms.

To Committee on Jurisprudence.

SB 647 by Brown

Relating to contracting by court reporters.

To Committee on Jurisprudence.

SB 648 by Brown

Relating to summary judgments in civil actions.

To Committee on Jurisprudence.

SB 649 by Luna

Relating to the computation of the number of students in weighted average daily attendance under the Foundation School Program.

To Committee on Education.

SB 650 by Luna, Shapleigh

Relating to the computation of the number of students in weighted average daily attendance under the Foundation School Program.

To Committee on Education.

SB 651 by Carona

Relating to complaints against peace officers and certain firefighters.

To Committee on Intergovernmental Relations.

SB 652 by Carona

Relating to the definition of instrument for purposes of a secured transaction.

To Committee on Economic Development.

SB 653 by Lindsay

Relating to certain reporting requirements for the Texas Natural Resource Conservation Commission.

To Committee on Natural Resources.

SB 654 by Ellis, Gallegos, Zaffirini

Relating to certain nonprofit entities that provide health or long-term care or health benefit plans; providing a penalty.

To Committee on Economic Development.

SJR 25 by Duncan, Armbrister, Patterson

Proposing a constitutional amendment providing for gubernatorial appointments to fill vacancies in the offices of appellate justices and judges, for a partisan election followed by retention elections on a nonpartisan ballot for those justices and judges, and for the appointment of district judges in accordance with certain standards.

To Committee on Jurisprudence.

SJR 26 by Gallegos

Proposing a constitutional amendment providing for the appointment of appellate justices and judges by the governor with retention elections on a nonpartisan ballot for those justices and judges, for the nonpartisan election and retention or rejection of district judges, for the election of certain district judges from state representative districts or commissioners court precincts, and for the alteration of the terms of certain judicial offices.

To Committee on Jurisprudence.

SCR 27 by Harris

Recognizing the Devil's Cigar Fungus as the Official State Fungus of Texas.

To Committee on State Affairs.

CAPITOL PHYSICIAN

The President recognized Senator Sibley, who presented Dr. Bruce Scaff of Clifton as the "Doctor for the Day."

Dr. Scaff, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was made welcome by the Senate.

REPORT OF COMMITTEE ON NOMINATIONS

Senator Shapiro submitted the following report from the Committee on Nominations:

TO THE SENATE OF THE SEVENTY-FIFTH LEGISLATURE:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed.

To be Chair of the STATE BOARD OF EDUCATION: John Raymond Christie, Harris County.

To be Members of the TEXAS HIGHER EDUCATION COORDINATING BOARD: Leonard Rauch, Chair, Harris County; William C. Atkinson, Brazos County; Martin Basaldua, M.D., Harris County; Dolores Carruth, M.D., Dallas County; Robert I. Fernandez, Tarrant County; Jodie Lee Jiles, Harris County; John Steven "Steve" Late, Ector County; Robert W. Shepard, Cameron County; Pamela Pitzer Willeford, Travis County.

To be Members of THE TEXAS A&M UNIVERSITY SYSTEM BOARD OF REGENTS: Anne L. Armstrong, Kenedy County; Dionel E. Aviles, Ph.D., Harris County; Erle Allen Nye, Dallas County.

To be Members of the UNIVERSITY OF NORTH TEXAS BOARD OF REGENTS: Joe Kirven, Dallas County; Burle Pettit, Lubbock County; John Robert "Bobby" Ray, Collin County.

To be Members of the STATE BOARD FOR EDUCATOR CERTIFICATION: Virginia S. Collier, Ph.D., Washington County; Peggy O'Neill DeRouen, Kleberg County; James Darrell Harris, Lubbock County; Andrew Jackson, Fort Bend County; Arthur Lacy, Collin County; Mary Denton Meier, Dallas County; James E. Nelson, Ector County; Arturo Pacheco, Ph.D., El Paso County; Edward Nash Patton, Jr., Taylor County; Cynthia Tassos Phillips, Travis County; James B. Price, Delta County; Mary Margaret Rucker, Harris County; Vernon Keith Sockwell, Collin County.

To be a Member of the COLLEGE OPPORTUNITY ACT COMMITTEE: Joe Munoz, Tom Green County.

Consideration Postponed: To be Members of the MIDWESTERN STATE UNIVERSITY BOARD OF REGENTS: Mac Wilmer Cannedy, Jr., Wichita County; Barbara J. Dorman, Hale County; Elizabeth A. "Liz" Gifford, Randall County; Arnold Wray Oliver, Wichita County.

To be Members of the PREPAID HIGHER EDUCATION TUITION BOARD: Michael David Gollob, Smith County; Beth Miller Weakley, Bexar County.

To be a Member of the TEXAS PREPAID TUITION SCHOLARSHIP FOUNDATION BOARD: George H. McShan, Cameron County.

To be Members of the STEPHEN F. AUSTIN UNIVERSITY BOARD OF REGENTS: Penny H. Butler, Harris County; Michael W. Enoch, Chambers County; Susan Scheumack Roberds, Dallas County.

To be Members of the TEXAS STATE TECHNICAL COLLEGE SYSTEM BOARD OF REGENTS: C. "Connie" de la Garza, Cameron County; Jere M. Lawrence, Nolan County; Jerilyn Kyker Pfeifer, Taylor County; Thomas L. "Tommy" Whaley, Sr., Harrison County.

To be RIO GRANDE COMPACT COMMISSIONER OF TEXAS: Jack Hammond, El Paso County.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Shapiro gave notice that Senator Madla would Monday, February 24, 1997, at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Thursday, February 20, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 52, Recognizing January 29, 1997, as Jefferson Day at the State Capitol.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

SENATE BILL 555 REREFERRED

On motion of Senator Sibley and by unanimous consent, **SB 555** was withdrawn from the Committee on Jurisprudence and was rereferred to the Committee on Economic Development.

SENATE BILL 554 REREFERRED

On motion of Senator Sibley and by unanimous consent, **SB 554** was withdrawn from the Committee on Jurisprudence and was rereferred to the Committee on Economic Development.

SENATE RESOLUTION 203

Senator Gallegos offered the following resolution:

WHEREAS, The Senate of the State of Texas takes pleasure in recognizing Go Tejano Day of the Houston Livestock Show and Rodeo which will be celebrated on February 23, 1997; and

WHEREAS, Featured in this year's entertainment will be twilight performances by two well-known and highly regarded music groups, Emilio Navaira and El Grupo Limite; and

WHEREAS, For the past eight years, Hispanic groups have performed at a rodeo event during the Houston Livestock Show and Rodeo; their efforts have served to promote the Tejano music industry; and

WHEREAS, Participation by Hispanic performers on Go Tejano Day of the Houston Livestock Show and Rodeo has also been responsible for additional scholarships being awarded to Hispanic students; and

WHEREAS, Eagerly anticipated by rodeo fans, the Hispanic music groups have shared the rich Hispanic heritage in Texas with all the citizens of our state; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby extend best wishes to the performers and committee members of Go Tejano Day at the Houston Livestock Show and Rodeo for a most successful and rewarding event; and, be it further

RESOLVED, That a copy of this Resolution be prepared as an expression of the esteem of the Texas Senate.

The resolution was read and was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Galloway was recognized and introduced to the Senate the seventh-grade Texas History class of Beaumont Christian School.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE
SENATE BILL 266 ON SECOND READING**

Senator Ellis moved that Section 5 of Article III of the State Constitution and Senate Rule 7.13 be suspended and that **CSSB 266** be taken up for consideration at this time.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Harris, Madla, Nixon.

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended for **CSSB 266**:

CSSB 266, Relating to the establishment of a program in the Texas Department of Commerce to secure certain loans made to small and medium-sized businesses and nonprofit organizations.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 266 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 266** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Harris, Madla, Nixon.

CSSB 266 was read third time and was passed by a viva voce vote.

GUESTS PRESENTED

Senator Wentworth was recognized and introduced to the Senate the seventh-grade class from John Glenn Middle School of San Angelo.

The Senate welcomed its guests.

MEMORIAL RESOLUTIONS

SR 214 - by Ellis: In memory of Sherman E. Stimley of Houston.

SR 216 - by Duncan: In memory of Jacque Ione Foster McClure of Sterling City.

CONGRATULATORY RESOLUTIONS

SR 215 - by Ellis: Congratulating Judy McEnany of Houston.

SR 217 - by Patterson: Congratulating Stacey Golden of Sam Rayburn High School in Pasadena.

SR 218 - by Patterson: Congratulating Angie Gutierrez of Pasadena High School.

SR 219 - by Patterson: Congratulating Coach Robert Kelly of Sam Rayburn High School in Pasadena.

SR 220 - by Patterson: Congratulating Shell Salmon of Sam Rayburn High School in Pasadena.

SR 221 - by Patterson: Congratulating Coach Darla Kelly of Pasadena High School.

SR 222 - by Patterson: Congratulating Jamie Kitchen of Sam Rayburn High School in Pasadena.

SR 223 - by Patterson: Congratulating Jeanna Poteet of Sam Rayburn High School in Pasadena.

SR 224 - by Gallegos: Congratulating Mary Helen and Isidor Meza, Jr., of Houston.

SR 225 - by Gallegos: Congratulating W. Carroll Smith of Pasadena.

ADJOURNMENT

On motion of Senator Truan, the Senate at 11:50 a.m. adjourned until 11:30 a.m. Monday, February 24, 1997.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Senate:

February 20, 1997

STATE AFFAIRS — **CSSB 438**

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **SB 463**

INTERGOVERNMENTAL RELATIONS — **SB 199**

INTERNATIONAL RELATIONS, TRADE, AND TECHNOLOGY —
SB 294

HEALTH AND HUMAN SERVICES — **CSSB 290, CSSB 422**

FINANCE — **SB 95, SB 503**

